

ASSEMBLY BILL

No. 1171

Introduced by Assembly Member Haynes

February 22, 2005

An act to amend Section 47607 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1171, as introduced, Haynes. Revocation of charter: notice and appeal procedures.

Under existing law, the charter of a charter school may be revoked by the authority that granted the charter if the authority finds that the charter school committed a material violation of any of the conditions, standards, or procedures set forth in the charter, failed to meet or pursue any of the pupil outcomes identified in the charter, failed to meet generally accepted accounting principles or engaged in fiscal mismanagement, or violated any provision of law.

This bill would establish a standard of proof for revocation of a charter, and notice and appeal procedures, as specified. Because a chartering authority and county board of education would be required to conduct hearings to consider the revocation of a charter, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 47607 of the Education Code is
2 amended to read:
3 47607. (a) (1) A charter may be granted pursuant to Sections
4 47605, 47605.5, and 47606 for a period not to exceed five years.
5 A charter granted by a school district governing board, a county
6 board of education or the State Board of Education, may be
7 granted one or more subsequent renewals by that entity. Each
8 renewal shall be for a period of five years. A material revision of
9 the provisions of a charter petition may be made only with the
10 approval of the authority that granted the charter. The authority
11 that granted the charter may inspect or observe any part of the
12 charter school at any time.
13 (2) Renewals and material revisions of charters shall be
14 governed by the standards and criteria in Section 47605.
15 (b) Commencing on January 1, 2005, or after a charter school
16 has been in operation for four years, whichever is later, a charter
17 school shall meet at least one of the following criteria prior to
18 receiving a charter renewal pursuant to paragraph (1) of
19 subdivision (a):
20 (1) Attained its Academic Performance Index (API) growth
21 target in the prior year or in two of the last three years, or in the
22 aggregate for the prior three years.
23 (2) Ranked in deciles 4 to 10, inclusive, on the API in the prior
24 year or in two of the last three years.
25 (3) Ranked in deciles 4 to 10, inclusive, on the API for a
26 demographically comparable school in the prior year or in two of
27 the last three years.
28 (4) (A) The entity that granted the charter determines that the
29 academic performance of the charter school is at least equal to
30 the academic performance of the public schools that the charter
31 school pupils would otherwise have been required to attend, as
32 well as the academic performance of the schools in the school
33 district in which the charter school is located, taking into account
34 the composition of the pupil population that is served at the
35 charter school.

1 (B) The determination made pursuant to this paragraph shall
2 be based upon all of the following:

- 3 (i) Documented and clear and convincing data.
4 (ii) Pupil achievement data from assessments, including, but
5 not limited to, the Standardized Testing and Reporting Program
6 established by Article 4 (commencing with Section 60640) for
7 demographically similar pupil populations in the comparison
8 schools.
9 (iii) Information submitted by the charter school.

10 (C) A chartering authority shall submit to the Superintendent
11 ~~of Public Instruction~~ copies of supporting documentation and a
12 written summary of the basis for any determination made
13 pursuant to this paragraph. The Superintendent ~~of Public~~
14 ~~Instruction~~ shall review the materials and make recommendations
15 to the chartering authority based on that review. The review may
16 be the basis for a recommendation made pursuant to Section
17 47604.5.

18 (D) A charter renewal may not be granted to a charter school
19 prior to 30 days after that charter school submits materials
20 pursuant to this paragraph.

21 (5) Has qualified for an alternative accountability system
22 pursuant to subdivision (h) of Section 52052.

23 (c) A charter may be revoked by the authority that granted the
24 charter under this chapter if the authority finds, *based on a*
25 *preponderance of the evidence*, that the charter school did any of
26 the following:

27 (1) Committed a material violation of any of the conditions,
28 standards, or procedures set forth in the charter.

29 (2) Failed to meet or pursue any of the pupil outcomes
30 identified in the charter.

31 (3) Failed to meet generally accepted accounting principles, or
32 engaged in fiscal mismanagement.

33 (4) Violated any provision of law.

34 (d) Prior to revocation, the authority that granted the charter
35 shall notify the charter public school of any violation of this
36 section and give the school a reasonable opportunity to cure the
37 violation, unless the authority determines, in writing, that the
38 violation constitutes a severe and imminent threat to the health or
39 safety of the pupils.

1 (e) If the violation is not cured or if the violation constitutes a
2 severe and imminent threat to the health and safety of pupils,
3 pursuant to subdivision (d), a chartering authority shall provide
4 to the charter school, prior to revoking a charter, notice of intent
5 to revoke and notice of the facts supporting the revocation. No
6 later than 30 days after providing notice of the chartering
7 authority's intent to revoke a charter, the chartering authority
8 shall hold a public hearing on the issue of whether evidence
9 exists to revoke the charter. Within 60 days following the public
10 hearing, the chartering authority shall either revoke the charter
11 or decline to revoke the charter, provided, however, that the date
12 may be extended by an additional 30 days if both parties agree to
13 the extension. A chartering authority shall not revoke a charter
14 unless it makes written factual findings, specific to the particular
15 facts of that charter school, setting forth specific facts to support
16 its findings. A chartering authority shall not revoke a charter
17 unless, in addition to the requirements of subdivision (c), the
18 chartering authority finds any of the following:

19 (1) The charter school presents an unsound educational
20 program for the pupils to be enrolled in the charter school.

21 (2) The petitioners are demonstrably unlikely to successfully
22 implement the program set forth in the petition.

23 (f) If a chartering authority revokes a charter pursuant to this
24 section, the charter school may appeal the revocation to the
25 county board of education. The county board of education shall
26 review the petition pursuant to subdivision (e). If the county
27 board of education denies the appeal, the charter school may
28 appeal the denial to the State Board of Education, and the state
29 board shall act on the appeal in accordance with subdivision (e).

30 (g) The state board shall develop criteria to be used for the
31 appeal of a revocation of a charter presented to a county office
32 of education or to the State Board of Education. The criteria
33 shall address all elements required for charter revocation, as
34 identified in subdivision (c) of Section 47607, in a manner that is
35 consistent with the intent of this part. Upon satisfactory
36 completion of the criteria, the state board shall adopt the criteria
37 on or before June 30, 2006.

38 (h) If either the county board of education or the state board
39 fails to act on an appeal within 120 days of receipt, the decision

1 of the chartering authority to revoke a charter shall, thereafter,
2 be subject to judicial review.

3 (i) During the pendency of an appeal filed pursuant to
4 subdivision (f) or during litigation pursued pursuant to
5 subdivision (h), the charter school shall fully qualify as a charter
6 school for all funding and other purposes of this part, and may
7 continue to hold all existing grants, resources, and facilities, in
8 order to ensure that the education of pupils enrolled in the school
9 is not disrupted.

10 (j) The state board shall adopt regulations implementing this
11 section.

12 (k) Upon the decision by the county board of education or the
13 state board on an appeal filed pursuant to subdivision (f), the
14 county board of education or the state board, as appropriate,
15 shall notify the department and the state board, as appropriate,
16 as to the decision.

17 SEC. 2. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.